

IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA  
DURHAM DIVISION  
Civil Action No: 1:07-CV-357

**WILLIAM S. EVERITT,**

**Plaintiff,**

**v.**

**AXIS SPECIALTY INSURANCE  
COMPANY and AXIS FINANCIAL  
INSURANCE SOLUTIONS,**

**Defendants.**

**STIPULATED ORDER OF DISMISSAL,  
WITHOUT PREJUDICE**

1. Plaintiff William S. Everitt ("Everitt"), and Defendants Axis Specialty Insurance Company and Axis Financial Insurance Solutions (collectively, "Axis"), in accordance with Rule 41(a)(1)(ii) of the Federal Rules of Civil Procedure, stipulate to the dismissal of this action, without prejudice.

2. Everitt and Axis further stipulate that Everitt shall be entitled to refile the claims asserted in this action any time within 90 days of the entry of a final judgment or, if appealed, exhaustion of all appeals in the action styled *Curtis B. Pearson Music Company, et al. v. McFadyen Music, Inc., et al.*, United States District Court for the Middle District of North Carolina, Durham Division, Case No. 1:04CV00378. In the event of such refiling, all statutes of limitations and other time-based defenses shall be deemed to have been tolled from May 4, 2007 until and including the date of such refiling.

3. Everitt and Axis further stipulate that this Court shall have exclusive subject matter jurisdiction over the claims, defenses and counterclaims asserted in this action in the event Everitt refiles this action in accordance with paragraph 2 above, and further stipulate that neither Everitt nor Axis shall take any action to present or litigate any of the claims, defenses or counterclaims asserted in this action before any other state or federal court.

This 28th day of December, 2007.

s/ R. Steven DeGeorge

R. Steven DeGeorge (N.C. Bar No.  
20723)

ROBINSON, BRADSHAW & HINSON,  
P.A.  
101 North Tryon Street, Suite 1900  
Charlotte, North Carolina 28246-1900  
Telephone: (704) 377-2536  
Facsimile: (704) 378-4000  
sdegeorge@rbh.com

Attorneys for Plaintiff

s/ David E. Fox

David E. Fox (N.C. State Bar No. 10332)  
Michael J. Byrne (N.C. State Bar No.  
23577)

MOORE & VAN ALLEN, PLLC  
P.O. Box 13706  
Research Triangle Park, NC 27709  
Telephone: (919) 286-8000  
Facsimile: (919) 286-8199  
[davidfox@mvalaw.com](mailto:davidfox@mvalaw.com)  
[michaelbyrne@mvalaw.com](mailto:michaelbyrne@mvalaw.com)

Attorneys for Defendants

APPROVED

This the day of January 1, 2008

/s/ N. Carlton Tilley, Jr.  
United States District Judge